



**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
May 26, 27, and 28, 2015**

(SECOND AMENDED)

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald M. George State Office Complex, Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on May 26, 27, and 28, 2015.

TUESDAY, MAY 26, 2015—9:00 A.M.

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|-----|---------|--|
| (1) | S205889 | Fluor Corporation v. Superior Court of Orange County
(Hartford Accident and Indemnity Company,
Real Party in Interest) |
| (2) | S199557 | City of San Diego et al. v. Board of Trustees of the California
State University |
| (3) | S218597 | DKN Holdings LLC v. Faerber (Wade) |

1:30 P.M.

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| (4) | S199435 | In re the Estate of Irving Duke |
| (5) | S220775 | Lee (Nancy F.) v. Hanley (William B.) |
| (6) | S139103 | People v. Jackson (Bailey) [Automatic Appeal]
<i>[To be called and continued to a future oral argument
calendar.]</i> |
| (7) | S093803 | People v. Seumanu (Ropati) [Automatic Appeal]
<i>(Perluss, P.J., assigned justice pro tempore; Corrigan, J., not
participating)</i> |

WEDNESDAY, MAY 27, 2015—9:00 A.M.

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| (8) | S219454
S219819 | People v. Johnson (Timothy Wayne), and
People v. Machado (Oscar)
<i>(consolidated cases)</i> |
| (9) | S215300 | Poole (Steve) et al. v. Orange County Fire Authority
<i>(and consolidated case)</i> |
| (10) | S208130 | Cordova (Antonio) et al. v. City of Los Angeles |

1:30 P.M.

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| (11) | S211078 | People v. Blackburn (Bruce Lee) |
| (12) | S211329 | People v. Tran (Dawn Quang) |
| (13) | S218993 | People v. Brown (Shauntrel Ray) |

THURSDAY, MAY 28, 2015—9:00 A.M.

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| (14) | S211645 | J.R. Marketing, L.L.C. v. Hartford Casualty Insurance Company et al. |
| (15) | S221296 | People v. Superior Court of San Francisco County
(Daryl Lee Johnson, Real Party in Interest)
(<i>and consolidated case</i>) |
| (16) | S076340 | People v. Nguyen (Lam Thanh) [Automatic Appeal] |

CANTIL-SAKAUYE

Chief Justice

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)

**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
May 26, 27, and 28, 2015**

The following case summaries are issued to inform the public about cases that the California Supreme Court has scheduled for oral argument and of their general subject matter. In most instances, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

TUESDAY, MAY 26, 2015—9:00 A.M.

(1) *Fluor Corporation v. Superior Court of Orange County (Hartford Accident and Indemnity Company, Real Party in Interest), S205889*

#12-116 Fluor Corporation v. Superior Court of Orange County (Hartford Accident and Indemnity Company, Real Party in Interest), S205889. (G045579; 208 Cal.App.4th 1506; O Superior Court of range County; 06CC00016.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case presents the following issue: Are the limitations on assignment of third party liability insurance policy benefits recognized in *Henkel Corp. v. Hartford Accident & Indemnity Co.* (2003) 29 Cal.4th 934 inconsistent with the provisions of Insurance Code section 520?

(2) *City of San Diego et al. v. Board of Trustees of the California State University, S199557*

#12-40 City of San Diego et al. v. Board of Trustees of the California State University, S199557. (D057446; 201 Cal.App.4th 1134; Superior Court of San Diego County; GIC855643, GIC855701, 37-2007-00083692-CU-WM-CTL, 37-2007-00083773-CU-MC-CTL, 37-2007-00083768-CU-TT-CTL.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case includes the following issue: Does a state agency that may have an obligation to make “fair-share” payments for the mitigation of off-site impacts of a proposed project satisfy its duty to mitigate under the California Environmental Quality Act (Pub. Resources

Code, § 21000 et seq.) by stating that it has sought funding from the Legislature to pay for such mitigation and that, if the requested funds are not appropriated, it may proceed with the project on the ground that mitigation is infeasible?

(3) *DKN Holdings LLC v. Faerber (Wade)*, S218597

#14-83 DKN Holdings LLC v. Faerber (Wade), S218597. (E055732, E056294; 225 Cal.App.4th 1115; Superior Court of Riverside County; RIC1109512.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court limited review to the following issues: (1) Can parties who are jointly and severally liable on an obligation be sued in separate actions? (2) Does the opinion of the Court of Appeal in this case conflict with the opinion of this court in *Williams v. Reed* (1957) 48 Cal.2d 57?

1:30

(4) *In re the Estate of Irving Duke*, S199435

#12-31 In re the Estate of Irving Duke, S199435. (B227954; 201 Cal.App.4th 599; Superior Court of Los Angeles County; BP108971.) Petition for review after the Court of Appeal affirmed the judgment in a probate proceeding. This case presents the following issue: Should the “four corners” rule (see *Estate of Barnes* (1965) 63 Cal.2d 580) be reconsidered in order to permit drafting errors in a will to be reformed consistent with clear and convincing extrinsic evidence of the decedent’s intent?

(5) *Lee (Nancy F.) v. Hanley (William B.)*, S220775

#14-115 Lee (Nancy F.) v. Hanley (William B.), S220775. (G048501; 227 Cal.App.4th 1295, mod. 228 Cal.App.4th 793a; Superior Court of Orange County; 30-2011-00532352.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Does the one-year statute of limitations for actions against attorneys set forth in California Code of Civil Procedure section 340.6 apply to a former client’s claim against an attorney for reimbursement of unearned attorney fees advanced in connection with a lawsuit?

(6) *People v. Jackson (Bailey)*, S139103 (To be called and continued to a future oral argument calendar.) [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

(7) *People v. Seumanu (Ropati)*, S093803 [Automatic Appeal] (*Perluss, P. J., assigned justice pro tempore; Corrigan, J., not participating*)

This matter is an automatic appeal from a judgment of death.

WEDNESDAY, MAY 27, 2015—9:00 A.M.

(8) *People v. Johnson (Timothy Wayne)*, S219454 and *People v. Machado (Oscar)*, S219819 (consolidated cases)

#14-87 *People v. Johnson (Timothy Wayne)*, S219819. (B249651; 226 Cal.App.4th 620; Superior Court of Los Angeles County; YA038015.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence and *People v. Machado (Oscar)*, S219819 (B249557; 226 Cal.App.4th 1044, mod. 226 Cal.App.4th 1376a; Superior Court of Los Angeles County; YA036692.) Petition for review after the Court of Appeal reversed an order denying a petition to recall sentence.

Johnson presents the following issue: For the purpose of determining eligibility for resentencing under the Three Strikes Reform Act of 2012 (Prop. 36, Gen. Elec. (Nov. 6, 2012) [Pen. Code, § 1170.126]), is an offense considered a serious or violent felony if it was *not* defined as a serious or violent felony on the date the offense was committed but *was* defined as a serious or violent felony on the effective date of the Act?

Machado presents the following issue: Is an inmate serving an indeterminate term of life imprisonment under the Three Strikes Law (Pen. Code, §§ 667, subds. (b)-(j), 1170.12), which was imposed for a conviction of an offense that is *not* a serious or violent felony, eligible for resentencing on that conviction under the Three Strikes Reform Act if the inmate is also serving an indeterminate term of life imprisonment under the Three Strikes Law for a conviction of an offense that *is* a serious or violent felony?

(9) *Poole (Steve) et al. v. Orange County Fire Authority (and consolidated case), S215300*

Poole (Steve) et al. v. Orange County Fire Authority, S215300. (G047691, G047850; 221 Cal.App.4th 155; Superior Court of Orange County; 30-2011-00463651.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case presents the following issue: Did a daily log about firefighters, which was maintained by a supervisor and used by the supervisor to prepare annual performance evaluations, qualify under the Firefighters Procedural Bill of Rights Act (Gov. Code, § 3250 et seq.) as a personnel file and/or as a file used for personnel purposes?

(10) *Cordova (Antonio) et al. v. City of Los Angeles, S208130*

#13-30 Cordova (Antonio) et al v. City of Los Angeles, S208130. (B236195; 212 Cal.App.4th 243; Superior Court of Los Angeles County; BC442048, BC443948, BC444004.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court limited review to the following issue: May a government entity be held liable if a dangerous condition of public property existed and caused the injuries plaintiffs suffered in an accident, but did not cause the third party conduct that led to the accident?

1:30

(11) *People v. Blackburn (Bruce Lee), S211078*

#13-66 People v. Blackburn (Bruce Lee), S211078. (H037207; 215 Cal.App.4th 809; Superior Court of Santa Clara County; BB304666.) Petition for review after the Court of Appeal affirmed an order extending a commitment as a mentally disordered offender. The court limited review to the following issue: Did the trial court prejudicially err by failing to advise defendant of his right to jury trial and obtain a personal waiver of that right?

(12) ***People v. Tran (Dawn Quang), S211329***

#13-69 *People v. Tran (Dawn Quang), S211329.* (H036977; 216 Cal.App.4th 102; Superior Court of Santa Clara County; 205026.) Petition for review after the Court of Appeal affirmed an order extending a commitment after a judgment of not guilty by reason of insanity. The court limited review to the following issues: Did the trial court prejudicially err by failing to advise defendant of his right to jury trial and obtain a personal waiver of that right, and does the Court of Appeal have authority to declare a rule of procedure for the trial courts?

(13) ***People v. Brown (Shauntrel Ray), S218993***

#14-96 *People v. Brown (Shauntrel Ray), S218993.* (D064641; 226 Cal.App.4th 142; Superior Court of San Diego County; SCS264898.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issues: (1) Was defendant detained when a deputy sheriff stopped his patrol car immediately behind defendant's parked vehicle and activated the patrol car's emergency lights? (2) In the alternative, did the deputy have reasonable suspicion to detain defendant?

THURSDAY, MAY 28, 2015—9:00 A.M.

(14) ***J.R. Marketing, L.L.C. Hartford Casualty Insurance Company et al., S211645***

#13-83 *J.R. Marketing, L.L.C. Hartford Casualty Insurance Company et al., S211645.* (A133750; 216 Cal.App.4th 1444; Superior Court of San Francisco County; CGC-06-449220.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: After an insured has secured a judgment requiring an insurer to provide independent counsel to the insured (see *San Diego Fed. Credit Union v. Cumis Ins. Society Inc.* (1984) 162 Cal.App.3d 358), can the insurer seek reimbursement of defense fees and costs it considers unreasonable and unnecessary by pursuing a reimbursement action against independent counsel or can the insurer seek reimbursement only from its insured?

(15) ***People v. Superior Court of San Francisco County (Daryl Lee Johnson, Real Party in Interest) (and consolidated case), S221296***

#14-124 People v. Superior Court of San Francisco County (Daryl Lee Johnson, Real Party in Interest), S221296. (A140767, A140768; 228 Cal.App.4th 1046; Superior Court of San Francisco County; 12029482.) Petition for review after the Court of Appeal granted in part and denied in part petitions for peremptory writ of mandate. This case presents the following issues: (1) Does the prosecution have a duty to review peace officer personnel files to locate material that must be disclosed to the defense under *Brady v. Maryland* (1963) 373 U.S. 83? (2) Does the prosecution have a right to access those files absent a motion under *Pitchess v. Superior Court* (1974) 11 Cal.3d 531? (3) Must the prosecution file a *Pitchess* motion in order to disclose such *Brady* material to the defense?

(16) ***People v. Nguyen (Lam Thanh), S076340*** [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

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